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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORT SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourth periodic reports of States parties due in 1998

Addendum

Zimbabwe*

[20 October 1998]

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* This document contains the second, third and fourth periodic reports, submitted in one document, due on 12 June 1994, 1996 and 1998, respectively. For the initial report of Zimbabwe and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/217/Add.1 and CERD/C/SR.1131-1132.

The annexes to the report submitted by the Government of Zimbabwe may be consulted in the Secretariat's files.

1. This report is the second report submitted by the Government of Zimbabwe in terms of article 9 of the Convention. As the second report is overdue we have decided to combine the second and third reports in one. In addition to any new information which is not included in the initial report, this report will attempt to respond to the issues which were raised by the Committee in its concluding observations at its forty-eighth session.

2. The general background information on Zimbabwe is contained in the "core document" which was submitted together with the initial report. The core document provides an overview of Zimbabwe and its people, covering such aspects as the ethnic and demographic characteristics of Zimbabwe, including its social, economic and cultural indicators. It also contains information on Zimbabwe's general political structure and general legal framework. However, the Committee's attention is drawn to various changes which have taken place since Zimbabwe's submission of the core document. These changes are reflected in the annexed documents.

Article 2

Education

3. The Education Act of 1987, as amended in 1991, in Part II, section 4, subsections (1) and (2), provides that every child in Zimbabwe shall have the right to school education; and that no child shall be refused admission to any school on grounds of race, tribe, colour, religion, creed, place of origin, political opinion or the social status of his/her parents. Part III of section 9 of the Act classifies schools as either government or non-government, which implies that there are private schools in Zimbabwe. Further, the Act, in Part V, stipulates that no person shall operate a non-government school which is not authorized by the Secretary for Education or properly registered with the Ministry of Education and that no responsible authority shall charge any fee, or increase any fee, by more than 10 per cent without the Secretary's approval.

4. In respect of high-fee-charging non-government schools, the Ministry of Education, Sports and Culture has attempted to implement the provisions of the Act by issuing policy regulations that set black/white ratios of 60/40 for the pupils and members of staff in each school. In addition, these schools are required to introduce bursary and scholarship schemes to enable children from poor families to attend. However, the Ministry of Education had encountered problems in trying to implement these policy regulations as the ratio of whites in these schools still remains high.

5. It is Government's policy that pupils in grades one to three be taught in their mother tongue, but this policy has not been implemented fully due to financial, human (teachers and writers) and material constraints. Priority for entry to teacher training institutions is being considered for members who speak minority languages to train them as teachers with the hope that they will go back to teach in their home areas. The same approach is used to select curriculum development officers and materials writers.

6. Human rights issues are taught at a superficial level in the Zimbabwean curricula, particularly in Social Studies and Education for Living, both at basic and secondary school levels. The Ministry of Education, Sports and Culture has, however, now prepared a proposal to incorporate human rights education into the school curriculum through identified "carrier" subjects. The programme is intended to mainstream human rights into the Zimbabwe school system at a higher and more detailed level than has been the case to date. Research to implement this programme in Zimbabwe was carried out in two phases, with the first phase focusing on an analysis of curriculum materials (mainly syllabuses and textbooks) for five subjects (Religious and Moral Education, Shona, English, History and Education for Living) to determine the extent to which they covered human rights issues. In addition, the analysis also sought to identify materials and other forms of support including pre-service and in-service training available for teachers. The second phase was a research survey involving five Harare schools.

7. The research study involved administration of questionnaires and interviews to form II and form IV pupils to assess their understanding of the seven human rights dimensions on the Commonwealth Conceptual Map. The seven identified dimensions were: law and the administration of justice; equality of opportunity; concepts embodies in history; civic and social rights and responsibilities; consumer rights; violence; identity. In addition, school heads and other education administrators were interviewed to establish the need for human rights education in schools, and how to accommodate it in the curriculum.

8. After the survey, the Minister of Education, Sports and Culture held a workshop whose aim was to formulate a strategy on strengthening human rights education in schools. The workshop came up with a proposal to incorporate human rights training through existing curricula subjects instead of introducing a new subject which would lead to further congestion of the curricula. The following subjects were identified as possible "carrier" subjects: History; Religious and Moral Education, Geography, Ndebele, Shona, Education for Living, English and Commerce.

9. Having identified the "carrier" subjects in which Human Rights would be incorporated, the Ministry of Education, Sports and Culture organized another workshop to discuss and produce a core-curriculum document in order to identify the human rights themes and dimensions that would be incorporated into each "carrier" subject. This long and thorough preparation is indicative of the Government's commitment to the formal and effective incorporation of human rights education in schools.

10. The Government has had to come up with such a programme because the system of education which was inherited by the independent Zimbabwean Government in 1980 was radically biased in favour of the white community. One division catered for the educational needs of the Europeans, Coloureds and Asians while the other catered for the majority Africans. Government spent at least 10 times more on the white child than on the black child. Progression within the African education subsystem was characterized by bottlenecks and other impediments to progression and access. For instance, whilst education for the white children was free and compulsory up to the age of 16 and free up to college level, the same was not the case in African education. Education

for the Whites was richer and more geared to bridge to gap between education and the world of work than that offered to the Blacks. Consequently, at Zimbabwe's independence, the whole education system needed to be overhauled.

11. At independence a new policy framework for reorganizing and democratizing the education system was adopted. This policy guaranteed equality of opportunity for al regardless of race, colour, creed or place of origin except when provided by law. Education was declared a basic human right for all children and for all adults who needed it.

12 The education Act (1987), which legislated into one comprehensive law various existing instruments and the universal principles enunciated in several international conventions to which Zimbabwe had acceded since independence, regulated school ownership, governance and financing. This development was further refined by the 1991 Education (Amendment) Act.

13. In terms of introducing curriculum reform, it is pertinent to point out that Zimbabwe's education system is divided into three phases:

(a) Basic education, which includes early childhood education and care (ECEC) primary education and adult literacy;

(b) Secondary education, which is subdivided into the three phases of Zimbabwe Junior Certificate 2 years, Zimbabwe General Certificate "O" level 2 years and Zimbabwe Advanced Level Certificate "A" level 2 years;

(c) Tertiary education, which includes university, technical and polytechnical education and teachers education, is the responsibility of the Ministry of High Education and Technology (MHET).

(d) The Zimbabwe Ministry of Education, Sports and Culture is responsible for the first two levels of education.

14. Any meaningful curriculum reforms must of necessity involve MHET and its institutions as it is the ministry responsible for training of teachers. Its institutions also run in-service programmes for teachers and education managers.

15. The Education Act as amended is explicit in its adherence to the principle of free primary education (with a view to making it compulsory in the future) for all children and for the education of all adults who need it. The Act, however, falls short of making primary education compulsory, although it states that it is the duty of every parent to ensure that their children attend school. Primary schooling continues to be tuition free in the rural areas where the majority of Zimbabwe's population lives.

16. The strategy of incorporating human rights into relevant "carrier" subjects took cognizance of the fact that the education system in Zimbabwe is exam driven and as such both students and teachers tend to concentrate on examinable subjects. In order to give human right education the priority and high profile it deserves, the incorporation of human rights into already existing subjects will make it examinable, thus ensuring that both teachers and students apply themselves.

Major legislation for eliminating racial discrimination

17. In the initial report, Zimbabwe reported that it did not have a consolidated piece of legislation aimed at eliminating racial discrimination. In an effort to comply with article 2 of the Convention, the Government of Zimbabwe has decided to enact specific legislation which deals with racial discrimination.

18. To that end, a bill has been drafted and is under consideration. This bill will be discussed in more detail under article 4 of this report.

Employment

19. In order to ensure that there is no racial discrimination in the public sector as well as in the private sector, Parliament in 1996, passed the Public Service Act. Section 18 of the Act provides:

> "When considering candidates for appointment to or promotion within the Public Service, the Commission shall: ensure that there is no discrimination on the grounds of race, tribe, place of origin, political opinion, colour, creed, gender or physical disability."

The law therefore complies with article 2 which requires that on appointment there should be no discrimination.

Indigenous business development

20. The Government has encouraged the development of indigenous businesses in Zimbabwe. Its support has been demonstrated by Government facilitating loans, at low interest rates, from various international organizations to indigenous business people.

Land

21. The question of land distribution has been one of the most cricical policy issues that has faced the independent Zimbabwe Government. The land issue was of fundamental significance during the struggle for independence. To the majority of black Zimbabweans it was the raison d'etre of the liberation struggle. It was therefore inevitable that for independence to be meaningful to the majority of the population, Government had to embark on a land redistribution programme. To date, about 70,000 families have benefited from the resettlement programme. Given the increasing population pressure in communal areas, the pressure to proceed faster with resettlement is mounting.

22. In this report we will not deal with the land distribution as it was at independence as that was canvassed in our initial report. We will focus primarily on the policy which Government has designed with regard to the resettlement programme.

23. The Land Distribution policy was formulated taking into account the fact that agricultural land is a finite resource and the fact that the demand for land in the country is always increasing and can never be satisfied. The policy has also been made in such a way that the resultant land redistribution pattern would lead to the effective utilization of all land in Zimbabwe.

24. The future land distribution pattern was fixed as follows:

(a) Five million hectares of land will remain with the large-scale commercial farming sector;

(b) The resettlement programme will take up a total of 8.3 million hectares of land;

(c) The small-scale commercial farming sector will remain with 1.2 million hectares of land;

(d) The communal areas will remain with 16.4 million hectares of land; and

(e) More land will be purchased from the large-scale commercial farming sector to increase land under State farms to 2.4 million hectares.

25. With regard to the Commercial Farm Settlement Scheme, the Government has proposed a procedure which is aimed at ensuring transparency in the allocation of farm units. The procedure is as follows:

1. Privately owned land is acquired by the Ministry of Land and Agriculture.

2. The acquired land is planned and demarcated into viable farm units.

3. The farm units are advertised in the national media, i.e. newspapers, radio and television, and offices of the Provincial and District Administrator.

4. Completed application forms together with supporting documents and five-year development plans are submitted to the Department of Lands and Technical Services before the closing date.

5. Three applicants per farm are short-listed by the Agricultural Land Settlement Board.

6. Short-listed candidates are interviewed by the Agricultural Land Settlement Board to determine the successful candidate.

7. Successful candidates are submitted by the Agricultural Land Settlement Board to the Minister of Lands and Agriculture for approval.

8. The Minister of Lands and Agriculture offers farms to successful applicants.

Beneficiaries

26. Applicants must be mature citizens of Zimbabwe and meet the following criteria:

(a) Be between 25 and 55 years of age;

(b) Have a minimum of two years' secondary school education plus technical competency in agriculture, e.g. certificate, diploma or degree in agriculture;

(c) Be in possession of or be able to commend sufficient funds in the form of cash and fixed assets to carry out the intended programme;

(d) Demonstrate a willingness to reside permanently on the allocated unit and/or demonstrate a willingness and capacity to employ a technically competent manager; and

(e) Have developed a feasible and agro-ecologically suitable farming programme in relation to the unit being applied for.

Article 3

27. The Government of Zimbabwe is still committed to the fight to eradicate racial discrimination and apartheid. As stated in our initial report, the Government of Zimbabwe has continued to find ways to prevent and prohibit racial discrimination. This is evidenced by the introduction of the Racial Discrimination Bill which we will discuss in detail in article 4.

28. Since South Africa's independence in 1994 the threat of apartheid has been eradicated and it is no longer a problem in Zimbabwe.

Article 4

29. The Prevention of Discrimination Bill mentioned under article 2 above will prohibit discrimination on the ground of race, tribe, place or origin, national or ethnic origin, political opinions, colour, creed or gender in a variety of circumstances, provide a remedy for persons injured by such discrimination and prohibit the promotion of such discrimination.

Clause 2

30. This clause defines terms that are used throughout the Bill. The definitions of "licence" and "public premises" will extend the ambit of the Bill to cover discrimination in a variety of places such as doctors' surgeries, lawyers' offices and any place where a service or facility for which members of the public are required to pay is provided. The term "discrimination" is defined in subclause (2) to include a refusal to admit a person to any public premises, a refusal to supply or provide a person with any commodity, service or facility, or the imposition of onerous terms and conditions upon any such admission, supply or provisions.

Clause 3

31. This clause will make it a criminal offence for anyone to refuse to admit a person or class of person to a public place, to refuse to supply a person or class of person with a commodity, service or facility, or to discriminate against a person or class of person in regard to their admission to a public place or provision with a commodity, service or facility, where the refusal or discrimination is based on the person's race, tribe, place of origin, national or ethnic origin, political opinions, colour, creed or gender.

Clause 4

32. This clause will make it an offence to discriminate against a person or class of person in regard to the sale, lease or disposal of immovable property, where the discrimination is based on the person's race, tribe, place of origin, national or ethnic origin, political opinions, colour, creed or gender. A variety of forms of such discrimination will be penalized by the clause.

Clause 5

33. This clause will make it an offence for a financial organization (a bank, building society or insurance company) to discriminate in the provision of loans and other forms of financial assistance, where the discrimination is based on the grounds listed above in relation to clauses 3 and 4.

Clause 6

34. This clause will make it an offence to make a statement that is likely to engender or promote hostility towards other persons on the grounds of their race, tribe, place of origin, national or ethnic origin, colour, creed or gender, or to expose them to contempt or ridicule on those grounds.

Clause 7

35. This clause will give persons who suffer from various forms of discriminatory conduct a right to claim damages from the person guilty of the conduct. The clause will not limit such person's right to any other legal remedy.

36. The Bill provides very severe penalties ranging from $10,000 or one year's imprisonment with labour to $20,000 or imprisonment for a period not exceeding one year with labour. In addition to the criminal sanction, the guilty party may have his licence suspended or cancelled.

37. The Bill also confers the right on an aggrieved party to claim damages from the party found guilty of discrimination.

38. It is worth noting that the Bill is wider in scope than is strictly required by the Convention. In addition to racial discrimination, the Bill will prohibit discrimination on the grounds of political opinions, creed and gender in a variety of circumstances. This shows the seriousness with which the Government views any form of discrimination.

Article 5

Marriage Laws

39. The marriage relationships are governed by both general and customary law. At present there are three types of marriages, namely civil marriage, registered customary marriage and unregistered customary marriage. Civil marriages are contracted in terms of the Marriage Act and they are monogamous. All Zimbabweans are competent to contract this type of marriage and it is governed by general law. Before independence most Africans married under the Customary Law Marriages Act. Marriage under this Act is potentially polygamous and it can only be contracted by Africans, as it is governed by African customary law. The third type of marriage, the unregistered customary marriage, is where customary law requirements relating to marriage have been met but the union is not eventually registered. The law does not recognize this marriage as valid except for certain specific purposes such as the status and rights of children of such marriages.

40. After extensive consultation with the general public and interested parties, including NGOs and traditional leaders, it is the view of the Government that the root of the problem which we alluded to in our initial report lies not in the marriage laws but in the inheritance/succession laws when a person who dies intestate was married according to African customary law. In order to remedy this situation the Government has amended the Administration of Estates Act, which governs the administration of deceased persons' estates. This amendment seeks to provide a method for fair distribution of property when a person who has been married under customary law to one or more wives dies intestate. The amendment, which became law on 1 October 1997 is attached as an annex to the present report.

41. The Government is currently considering enacting one Marriage Act which will provide for monogamous and potentially polygamous marriages. The potentially polygamous marriage will permit all persons in Zimbabwe, regardless of race, tribe, tradition, custom or religion, to contract such a marriage. The Act will, as far as possible, unify the procedural requirements for different forms of marriage. It is the intention of Government to eliminate as far as possible the variable consequences currently attaching to the different types of marriage.

Article 6

42. As was reported in the initial report, there is no single piece of legislation which provides for protection and remedies against racial discrimination in Zimbabwe. However, the Prevention of Discrimination Bill discussed under article 4 will give effect to the Convention, provide for other grounds of discrimination in a variety of circumstances and provide a remedy for persons injured by discrimination.

43. The Constitution of Zimbabwe Amendment (No. 14) (annexed) has a provision which extends the powers of the Ombudsman to include the investigation into allegations of contravention of the Declaration of Rights by any officer, person or authority. The Ombudsman Amendment (No.4) of 1997 (annexed) also empowers the Ombudsman to investigate any violations of the Declaration of Rights by members of the defence forces, the police force and the prison service. In addition, the Ombudsman may also examine any enactment and report to the Minister of Justice, Legal and Parliamentary Affairs on whether it contravenes or is likely to contravene the Declaration of Rights, and take such measures as are necessary or desirable to promote public awareness of human rights.

44. The Office of the Ombudsman is currently working on the modalities of creating a structure which will include a section to deal with human rights issues. The Office is not at present equipped with experienced personnel in matters of human rights. This tends to be a constraint on the proper functioning of the Office as human rights is a new function for it. Effort is being made to train the personnel and to equip them with the necessary knowledge to competently and efficiently discharge their responsibilities.

Article 7

45. As had already been stated in article 2, the Government of Zimbabwe has embarked on a project to introduce human rights education in schools. Although the programme does not focus specifically on racial discrimination, it will nevertheless be taught amongst other human rights issues.

46. This is the fiftieth anniversary of the Universal Declaration of Human Rights. Zimbabwe, like other countries which are committed to the propagation of human rights, is putting together a programme to celebrate and commemorate this event. This programme will obviously be widely publicized and as such spread people's knowledge about human rights.

List of annexes

Administration of Estates Amendment (No. 6)

Ombudsman Amendment (No. 4)

Constitution of Zimbabwe Amendment (No. 14)